

**IN THE UNITED STATES DISTRICT COURT  
FOR THE SOUTHERN DISTRICT OF WEST VIRGINIA**

**CHARLESTON DIVISION**

CEDEAL T. HARPER,

Plaintiff,

v.

CIVIL ACTION NO. 2:12-cv-00656

CAPTAIN JAMES MCCLOUD,  
WARDEN DAVID BALLARD, and  
COMMISSIONER JIM RUBENSTEIN,  
all in their individual and official capacities,

Defendants.

**MEMORANDUM OPINION AND ORDER**

Pending before the Court are Plaintiff Cedear Harper's Motions for Partial Summary Judgment [Dockets 35 and 41]. By Standing Order entered September 2, 2010 and filed in this case on March 6, 2012, these matters were referred to United States Magistrate Judge Mary E. Stanley for submission of proposed findings of fact and a recommendation for disposition ("PF&R"). Magistrate Judge Stanley submitted a PF&R on November 15, 2012 [Docket 49], recommending that this Court deny Plaintiff's motions as premature.

The Court is not required to review, under a *de novo* or any other standard, the factual or legal conclusions of the magistrate judge as to those portions of the findings or recommendation to which no objections are addressed. *Thomas v. Arn*, 474 U.S. 140, 150 (1985). Failure to file timely objections constitutes a waiver of *de novo* review and the Petitioner's right to appeal this Court's Order. 28 U.S.C. § 636(b)(1); *see also Snyder v. Ridenour*, 889 F.2d 1363, 1366 (4th Cir. 1989);

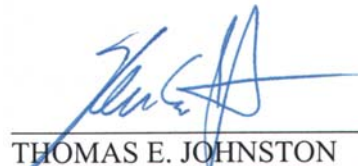
*United States v. Schronce*, 727 F.2d 91, 94 (4th Cir. 1984). In addition, this Court need not conduct a *de novo* review when a party “makes general and conclusory objections that do not direct the Court to a specific error in the magistrate’s proposed findings and recommendations.” *Orpiano v. Johnson*, 687 F.2d 44, 47 (4th Cir. 1982). Objections to the PF&R were due on December 3, 2012. To date, no objections have been filed.

Accordingly, the Court **ADOPTS** the PF&R [Docket 49] and **DENIES** Plaintiff’s motions [Dockets 35 and 41] without prejudice, pending the conclusion of the discovery process. The Court leaves this matter assigned to Magistrate Judge Stanley for additional proceedings.

**IT IS SO ORDERED.**

The Court **DIRECTS** the Clerk to send a copy of this Order to counsel of record and any unrepresented party.

ENTER: January 22, 2013

  
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THOMAS E. JOHNSTON  
UNITED STATES DISTRICT JUDGE